

Atty. Dkt. No. 039153-0363 (F0804)

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claim 24 is requested to be cancelled without prejudice. Claim 11 is currently being amended. No new matter is added. This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-4, 9-13, 15-17 and 14-23 are now pending in this application.

On page 2 of the Office Action, the Examiner has stated that claim 24 and claim 11 are not directed to the elected species. Accordingly, Applicants have amended claim 11 to remove the recitation of the first layer containing silicon rich nitride or silicon oxynitride and withdraws the arguments made with respect to that limitation. Claim 11 has also been amended to recite the providing of a gate dielectric layer above a substrate. Accordingly, claim 11 is patentable for the same reasons discussed in the previous response to Office Action with respect to claim 1. Applicant has cancelled claim 24 without prejudice. Accordingly, it is respectfully submitted that all claims are now directed to the original elected species III. Accordingly, withdrawal of the objection to the previous response is respectfully requested.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to

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Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

Date 10-21-04

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